

REMARKS

In the Office Action, the Examiner objected to the priority claim; objected to the specification; objected to claim 1, 11 and 23; rejected claims 2, 3, 12, 13, 21 and 24 under the second paragraph of 35 USC §112; rejected claims 1-22 under 35 U.S.C. §101; and rejected claims 1-24 under 35 U.S.C. §103(a). These objections and rejections are fully traversed below.

Claims 1, 7, 8, 11, 17, 18, 21, 23 and 24 have been amended to further clarify the subject matter regarded as the invention. Claims 1-24 remain pending. Reconsideration of the application is respectfully requested based on the following remarks.

Priority

In the Office Action, the Examiner alleges that one or more conditions for receiving benefit of priority may be lacking. Regardless of whether priority is available, Applicants distinguish the claimed invention from the references cited by the Examiner, thereby rendering availability of priority moot.

Objection to the Specification

In the Office Action, the Examiner objected to the specification. In particular, the Examiner requested correction of several informalities concerning the specification. In this regard, Applicant has amended paragraphs [0011], [0029], [0032] and [0033]. Accordingly, it is respectfully requested that the objection to the specification be withdrawn.

Objection to the Claims

In the Office Action, the Examiner objected to claims 1, 11 and 23 due to minor informalities. Claims 1, 11 and 23 have been amended to further clarify the subject matter regarded as the invention. Accordingly, it is respectfully requested that the objection of claims 1, 11 and 23 be withdrawn.

Rejection of Claims 2, 3, 12, 13, 21 and 24 under 35 USC 112, 2nd Paragraph

In the Office Action, the Examiner rejected claims 2, 3, 12, 13, 21 and 24 under the second paragraph of 35 USC §112 as being indefinite. Although claim 21 has been amended to clarify the subject matter regarded as the invention, it is respectfully submitted that claims 2, 3, 12, 13 and 24 are not only complete but also sufficiently definite to satisfy the requirements of the second paragraph of 35 USC §112. Although the Examiner makes reference to the priority update process of FIG. 3, none of these claims require that there be a priority update. As such, it is submitted that claims 2, 3, 12, 13 and 24 do not lack any essential element. Therefore, it is respectfully requested that the rejection of claims 2, 3, 12, 13, 21 and 24 under the second paragraph of 35 USC §112 be withdrawn.

Rejection of Claims 1-22 under 35 USC 101

In the Office Action, the Examiner rejected claims 1-22 under 35 USC §101 alleging that these claims are directed towards non-statutory subject matter. Applicants respectfully disagree. The nature of the method operations or computer program code recited in these claims is sufficiently tangible, physical and/or functional to satisfy the requirements of 35 U.S.C. §101.

With respect to claim 1, it should be noted that the claim pertains to a “method” which is a statutory class of patentable subject matter under 35 USC §101. The method of claim 1 is also not only tangible but also provides a practical application. The management of tasks on a computer is tangible and practical. The tasks themselves pertain to media-based actions which are also physical, tangible and practical. Consequently, claims 1-10 as originally filed clearly satisfy the requirements of 35 U.S.C. §101.

With respect to claims 11-22, to expedite prosecution of this application, Applicants have amended paragraph [0046] of the specification and amended claim 11 to clarify the tangible nature of the claimed invention. Therefore, it is submitted that claims 11-22 as originally filed clearly satisfy the requirements of 35 U.S.C. §101.

Accordingly, it is respectfully requested that the Examiner withdraw the rejection to claims 1-22 under 35 U.S.C. §101.

Rejection of Claims 1-24 under 35 USC 103(a)

In the Office Action, the Examiner rejected claims 1-22 under 35 U.S.C. §103(a) as being unpatentable over Nieh et al., “The Design, Implementation and Evaluation of SMART: A Scheduler for Multimedia Applications,” Proceedings of the Sixteenth ACM Symposium on Operating Systems Principles, October 1997 (hereafter “Nieh et al.”) in view of Homer et al., US Patent Publication 2002/0042730 A1 (hereafter “Homer et al.”); and rejected claims 23 and 24 under 35 U.S.C. §103(a) as being unpatentable over Homer et al. in view of Nieh et al. These rejections are fully traversed below.

Claim 1 pertains to a method for managing tasks performed on a computer capable of coupling over a network to a network-based media server. According to claim 1, tasks are received for performance on a single client application that operates on a computer and the tasks involve interaction with a media server over a network. Thereafter, the method activates operations at the computer to respond to each of the tasks, and coordinates performance of the activated operations in accordance with priority levels associated with the different media-based actions of the tasks.

On the other hand, Nieh et al. schedules computation resources for multiple multi-media real-time applications. That is, Nieh et al. is concerned with handing computation loads from the multiple multi-media real-time applications. “As the system load changes, SMART adjusts the allocation of resources dynamically and seamlessly. SMART is unique in its ability to automatically shed real-time tasks and regulate their execution rates when the system is overloaded, while providing better value in underloaded conditions than previously proposed schemes.” Nieh et al., see Abstract

Hence, fundamentally, Nieh et al. is concerned with scheduling amongst different applications. Although Nieh et al., at section 3.1 on page 3 does indicate that the SMART scheduling considers “priority” [*“Priority. The system should not degrade the performance of a high priority application in the presence of a low priority application.”*], such priority is a priority of an application. See also, section

4.1 on page 6. In contrast, claim 1 recites that the tasks it prioritizes not only pertain to one or more different media-based actions but also are performed by a single client application. Furthermore, claim 1 uses “priority levels associated with the different media-based actions of the tasks” that are performed by the single client application. However, at best, Nieh et al. is able to permit users to prioritize applications (Nieh et al., page 3, para. 3)(“The user can specify that applications have different priorities, meaning that the application with the higher priority is favored whenever there is contention for resources.”).

Accordingly, for at least the reasons noted above, it is respectfully submitted that claim 1 is patentably distinct from Nieh et al. in view of Homer et al. Homer et al. is not able to cure the serious deficiencies of Nieh et al. noted above. In addition, claim 11 pertains to a computer readable medium that includes computer program code that can operate similar to the method discussed above regarding claim 1. As such, for at least reasons similar to those noted above with respect to claim 1, it is submitted that claim 11 is also patentably distinct from Nieh et al. in view of Homer et al.

Still further, claim 23 pertains to a computer for presenting media to its user. The computer includes a client media application program operable to enable the user to play, browse, preview, purchase, download or present media items for the benefit of the user. A task manager “manages performance of at least browse, preview, purchase or download operations by assigning priority levels to each of the browse, preview, purchase or download operations, and managing performance of the browse, preview, purchase or download operations in accordance with the assigned priority levels.” Hence, in claim 23, a client media application operates in view of priorities levels assigned to each of the browse, preview, purchase or download operations. Hence, for reasons similar to those noted above, it is submitted that claim 23 is also patentably distinct from Homer et al. in view of Nieh et al.

Based on the foregoing, it is submitted that claims 1, 11 and 23 are patentably distinct from Nieh et al. and Homer et al., individually or in combination. Additional limitations recited in the independent claims or the dependent claims are not further discussed because the limitations discussed above are sufficient to distinguish the

claimed invention from the cited art. Accordingly, it is respectfully requested that the Examiner withdraw the rejection to claims 1-24 under 35 U.S.C. §103(a).

SUMMARY

It is submitted that the objections to the specification and claims have been traversed. It is also submitted that claims 1-24 are patentably distinct from the cited references. In addition, it is submitted that claims 1-22 satisfy the requirements of 35 U.S.C. §101. Still further, it is submitted that claims 2, 3, 12, 13, 21 and 24 satisfy the requirements of 35 USC 112, second paragraph. Reconsideration of the application and an early Notice of Allowance are earnestly solicited.

If there are any issues remaining which the Examiner believes could be resolved through either a Supplemental Response or an Examiner's Amendment, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number listed below.

If it is determined that additional fees are due, the Commissioner is hereby authorized to charge such fees to Deposit Account 504298 (Order No. 101-P271).

Respectfully submitted,

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